

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:	)	CASE NO. BK06-80006
	)	
WBE COMPANY, INC.,	)	
	)	CH. 11
	)	
Debtor(s).	)	Filing No. 500, 538

ORDER

Hearing was held in Omaha, Nebraska, on September 24, 2007, regarding Filing No. 500, Motion to Approve, filed by the debtor, and Filing No. 538, Resistance, filed by Enterprise Bank. David Hicks appeared for the debtor and Andrew Muller and Mark Shaiken appeared for Enterprise Bank.

The debtor-in-possession has requested authority to lease certain equipment used for producing concrete, which the parties have identified as "Big Red" for \$3,000 per month for a one year non-exclusive lease. The equipment, according to Scott Wiekhorst, the general manager of the operation, is not necessary for use by the debtor-in-possession at this time and it is not anticipated that it will be needed in the ordinary course of business post-confirmation.

The motion is denied. The current plan filed by the debtor-in-possession, through its supplement filed in July of 2007 at Filing No. 430, provides for a sale of this equipment and a reduction of the debt owed to Enterprise Bank, the holder of the lien on the equipment. The supplement has not been modified to reflect the proposed lease.

A trial on both the plan filed by the debtor-in-possession and the plan filed by Enterprise Bank is scheduled for October 30, 31, and November 1, 2007. This lease is not in the ordinary course of business, is not identified in the plan or the supplement to the plan, and may be in violation of the terms of the lease that the debtor-in-possession has with an entity called "Maverick."

With the confirmation hearings scheduled so soon, it is not appropriate to deal with a major piece of equipment prior to such trial. If the debtor-in-possession's plan is eventually modified to reflect a proposed lease and is confirmed, the post-confirmation debtor will have the right to deal with its equipment as it sees fit. For now, however, such a lease shall not be permitted.

IT IS ORDERED that the Motion to Approve, Filing No. 500, is denied.

BY THE COURT:

/s/ Timothy J. Mahoney  
Chief Judge

Notice given by the Court to:

*David Hicks	Mark Shaiken
Andrew Muller	United States Trustee

\*Movant is responsible for giving notice of this order to other parties if required by rule or statute.